S.B.CRIMINAL MISC. BAIL APPLICATION NO.2206/2006

Date : 17.08.2006

HON'BLE MR. SATYA PRAKASH PATHAK, J.

Mr. Sandeep Mehta for the petitioner.
Mr. Vishnu Kachhawaha, Public Prosecutor for State.

I have heard learned counsel for the petitioner as well as the learned Public Prosecutor for the State and carefully gone through the impugned order.

In this case, allegation against the accused petitioner is that he sold a plot on the basis of power of attorney held by him which is said to have been given by his sister. When the plot was sold, it was revealed to the complainant that before disposing of the plot same was mortgaged with the Bank, therefore, on the basis of alleged allegation FIR has been lodged under Sections 420 and 120B IPC.

The contention of learned counsel for the petitioner is that under bonafide impression he has acted on the basis of power of attorney, therefore, it cannot be said that he was anywhere responsible for cheating. He further submitted that as regards mortgaging of the plot with the Bank is concerned, as far as he know, now property has been released.

On the other hand, learned Public Prosecutor has opposed the bail application and submitted that it has come on record that Bank has sold the plot to some other person.

Be that as it may, the fact remains that power of attorney holder sold the plot which was mortgaged with the Bank. In such circumstances, the matter requires consideration and prima facie it cannot be said that allegations levelled against the petitioner are not tenable.

Having considered the submissions made before me

and taking into consideration the overall facts and circumstances of the present case, I do not find it to be a fit case to extend benefit of anticipatory bail to the applicant. Accordingly, the bail application moved by the petitioner under Section 438 Cr.P.C. is rejected.

(SATYA PRAKASH PATHAK), J.

vijayant